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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

SEP - 4 1991

In re Matter of
Section 73.202(b),
Table of Allotments
FM Broadcast Stations
(Sun City, Arizona)

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RM-7946

11/1/91

Federal Communications Commission
Office of the Secretary

To: The Commission

PETITION FOR RULEMAKING

Resource Media, Inc. ("RMI"), licensee of FM Station KONC-FM, Channel 292A, Sun City, Arizona, hereby petitions for rulemaking to amend Section 73.202(b) of the Commission's rules in order to substitute Channel 292C-2 for Channel 292A at Sun City and to modify the authorization for KONC-FM accordingly. In support of this petition, the following is shown:

KONC-FM presently operates pursuant to a special temporary authority ("STA") issued to it by the FCC to permit the station to relocate its transmitter site due to a court order forcing the licensee to vacate its prior authorized site. This STA was initially granted on December 20, 1990 and has an expiration date of September 6, 1991; an extension request was filed on September 4, 1991.

The STA contains the condition that operation at KONC-FM's current site must cease upon grant of program test authority to the permittee of Channel 290A at Paradise Valley (Docket No. 88-410). RMI is thus well aware that it cannot operate from its current site indefinitely; hence, it has diligently endeavored to secure a new permanent transmitter site.

This petition proposes a co-channel upgrade at a new permanent site for which RMI has both reasonable assurance of its availability and FAA approval.

These are required since, as is demonstrated in the attached Engineering Statement of du Treil, Lundin and Rackley, Inc. (Exhibit 1), predicted city grade (70 dBu) coverage to all of Sun City from the proposed permanent site cannot be provided pursuant to the assumption of uniform terrain method. However, the attached study, based on actual terrain, demonstrates that the proposed upgraded facility will provide 70 dBu coverage to all of Sun City.

According to FCC policy established in Memorandum Opinion and Order (Woodstock and Broadway, Virginia), 3 FCC Rcd. 6398 (1988), the FCC will accept the use of an actual terrain analysis in cases of proposed higher, co-channel upgrade provided the petitioner demonstrates it has (1) reasonable assurance of the availability of a specific site, and (2) FAA approval for that site. Both conditions are met in this case.

Attached hereto as Exhibit 2 is a letter from Mr. Ron Ruziska of the Arizona State Land Department to Mr. Mike Wallis, the real estate agent representing RMI, regarding the availability of the site for lease by RMI. This letter establishes reasonable assurance of the availability of the proposed site according to the FCC's requirements. Under similar circumstances specifically involving the ASLD, the FCC has held that "where an applicant is dealing with a government agency that is unwilling or unable to make less than a legally binding commitment and where the record contains no explicit rejection of the applicant's proposal, a mere willingness by the government agency to entertain a request for use of the land in question is sufficient to provide reasonable assurance of the site's availability." Alden Communications Corporation, 3 FCC Rcd. 3937 (1988).

The requirements of the Alden case are met by the ASLD letter sent by Mr. Ruziska since it states that the land is available for a commercial lease and that the ASLD would consider an application to lease the land for use as a communications site. Accordingly, reasonable assurance of site availability has been established.

FAA clearance (FAA Study No. 90-AWP-1280-OE, dated August 27, 1991) has also been obtained for a tower at the proposed permanent site at 185.0 meters (607 feet) above ground level and 938.5 meters (3079 feet) above mean sea level, which will support the proposed antenna. This FAA clearance satisfies the requirement of FAA approval for the proposed site.

The Engineering Statement also demonstrates that KONC-FM can operate from the proposed site consistent with all separation requirements to existing and proposed stations and allotments provided two contingencies are satisfied. The first contingency is the licensing of Radio Station KONZ(FM), Channel 292A, Arizona City, at the location proposed in its pending application (File No. BMPH-910531IE). This application has been accepted for filing and is expected to be granted later this month. Since KONZ and KONC-FM are under common control, it is expected that this contingency will be satisfied shortly after grant of that application. The second contingency is the licensing of Station KIHX-FM, Prescott Valley, Arizona, which was ordered to move from Channel 292A to Channel 294C-2 pursuant to MM Docket No. 88-597. On August 6, 1991 the FCC granted the application of KIHX(FM) to implement its channel upgrade (File No. BPH-910219IB), Public Notice, August 16, 1991; accordingly, the

modified license for this station specifying its new channel should be issued shortly.

The upgrade of KONC-FM from Channel 292A to 292C-2 is in the public interest since it will prevent KONC-FM, the only radio station in the entire metropolitan Phoenix area to offer a format of classical music, from going off the air and disrupting service to its listeners in Sun City and its environs. Relocation to a permanent site must be completed in the near future in order to satisfy the terms of the station's STA. The permanent site chosen is in the public interest since it will significantly enhance the station's signal coverage area. Therefore, for all of the reasons given above, RMI respectfully requests the FCC to institute a rulemaking proposing the substitution of Channel 292C-2 for Channel 292A at Sun City, Arizona, and the modification of the license of KONC-FM accordingly.

Respectfully submitted,

RESOURCE MEDIA, INC.

By: Thomas J. Hutton
Thomas J. Hutton
Nancy L. Wolf

Its Counsel

DOW, LOHNES & ALBERTSON
1255 Twenty-third Street, N.W.
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Washington, D.C. 20037
(202) 857-2500

September 4, 1991

EXHIBIT 1

TECHNICAL EXHIBIT
IN SUPPORT OF PETITION FOR RULEMAKING
RESOURCE MEDIA, INC.
RADIO STATION KONC-FM
SUN CITY, ARIZONA

Technical Narrative

This technical exhibit has been prepared on behalf of Resource Media, Inc., licensee of FM station KONC-FM, Sun City, Arizona (herein "KONC-FM"). Station KONC-FM is presently authorized to operate on channel 292A. By means of this petition, KONC-FM seeks to substitute channel 292C2 for its present channel 292A, and modify its authorization accordingly. The upgrade can be accomplished in full compliance with the Commission's rules; however, the allocation of channel 292C2 at Sun City is contingent upon the actual licensing of commonly owned station KONZ, Arizona City, Arizona, at the location proposed in its pending application, File No. BMPH-910531IE, and the licensing of station KIHx-FM, Prescott Valley, Arizona on channel 294C2.¹

KONC-FM requests amendment of 47 CFR 73.202(b), Table of FM Allotments, to appear as follows:

<u>City, State</u>	<u>Channel</u>	
	<u>Present</u>	<u>Proposed</u>
Sun City, Arizona	292A	292C2

As shown in Figure 1, KONC-FM can operate from a proposed site located approximately 42.3 kilometers north

¹KIHx-FM was ordered from channel 292A to channel 294C2 as a result of MM Docket No. 88-597 and holds a construction permit (File No. BPH-910219IB) for operation on the new channel.

of Sun City and meet all separation requirements with existing and proposed stations and allotments with the exception of the licensed operations of KONZ and KIHX-FM. With respect to these stations, KIHX-FM holds a construction permit for operation on channel 294C2 which would eliminate the present conflict with the instant petition, and station KONZ has an application pending to change site which is fully spaced with the petition site. At the fully spaced site, whose site coordinates are shown on Figure 1, KONC-FM cannot provide predicted city grade (70 dBu) coverage to all of Sun City based on the assumption of uniform terrain. However, based on actual terrain the proposed upgraded facility could provide 70 dBu coverage to all of Sun City.

This technical exhibit provides the necessary data to show compliance with the city coverage requirement outlined in the Memorandum and Opinion and Order, 3 FCC Rcd No. 22, regarding Woodstock and Broadway, Virginia. KONC-FM has obtained reasonable assurance of site availability and has obtained FAA clearance (FAA Study No. 90-AWP-1280-OE, dated August 27, 1991) for a tower 185.0 meters (607 feet) above ground level and 938.5 meters (3079 feet) above mean sea level, which will support the proposed antenna. Assuming use of a 6-bay antenna, the authorized height is sufficient to provide KONC-FM with the maximum Class C2 antenna height above average terrain of 150 meters.

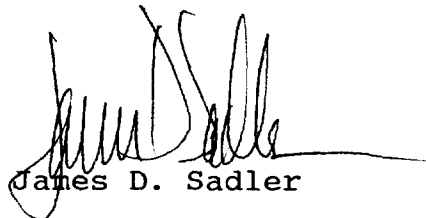
The predicted 70 dBu coverage contour was calculated in accordance with the provisions of 47 CFR 73.313. The average terrain elevations from 3 to 16 kilometers from the proposed site on the standard eight

radials and several additional radials in the direction of Sun City were obtained from the NGDC 30-second computer database. The average terrain elevations have been calculated in accordance with 47 CFR 73.313(d).

The antenna radiation center height above average terrain in each radial direction and the effective radiated power were used in conjunction with the F(50,50) curves of 47 CFR 73.333 (Figure 1 of the FCC rules) to determine distances to the 70 dBu contour. Figure 2 is a tabulation of average elevations and distances to the 70 dBu contour. As shown on Figure 3, the 70 dBu contour covers all of Sun City. The city limits of Sun City were obtained from a map contained in the 1980 census of population.

Conclusion

Based on the foregoing facts, KONC-FM respectively requests the upgrade of channel 292A to channel 292C2 and modification of its authorization to specify operation on the higher class channel conditioned upon the licensing of stations KIHX-FM and KONZ.



James D. Sadler

du Treil, Lundin & Rackley, Inc.
1019 19th Street, N.W., 3rd Floor
Washington, D.C. 20036
(202) 223-6700

August 30, 1991

Figure 1

TECHNICAL EXHIBIT
IN SUPPORT OF PETITION FOR RULEMAKING
RESOURCE MEDIA, INC.
RADIO STATION KONC-FM
SUN CITY, ARIZONA

Allocation Study

Site coordinates: 33° 58' 30" North Latitude
112° 20' 08" West Longitude

<u>Channel</u>	<u>Station</u>	<u>Separation Distance (km)</u>	
		<u>Actual</u>	<u>Required</u>
290A	New, Paradise Valley, AZ ¹	59.7	55
292A	KIHX-FM (Lic), Prescott Valley, AZ	68.3	166 ²
292A	KONZ (Lic), Arizona City, AZ	142.2	166 ³
292A	KONZ (App), Arizona City, AZ ⁴	165.5 ⁵	166
294C2	KIHX-FM (App), Prescott Valley, AZ ⁶	60.0	58
295A	KYNI (CP), Buckeye, AZ	64.8	55

¹ File No. BPH-870909MF, closest of six pending applications.
² Move to channel 294C2 per MM Docket No. 88-597.
³ See pending application, File No. BMPH-910531IE.
⁴ File No. BMPH-910531IE.
⁵ Rounds to 166 kilometers.
⁶ File No. BPH-910219IB, granted August 6, 1991.

Figure 2

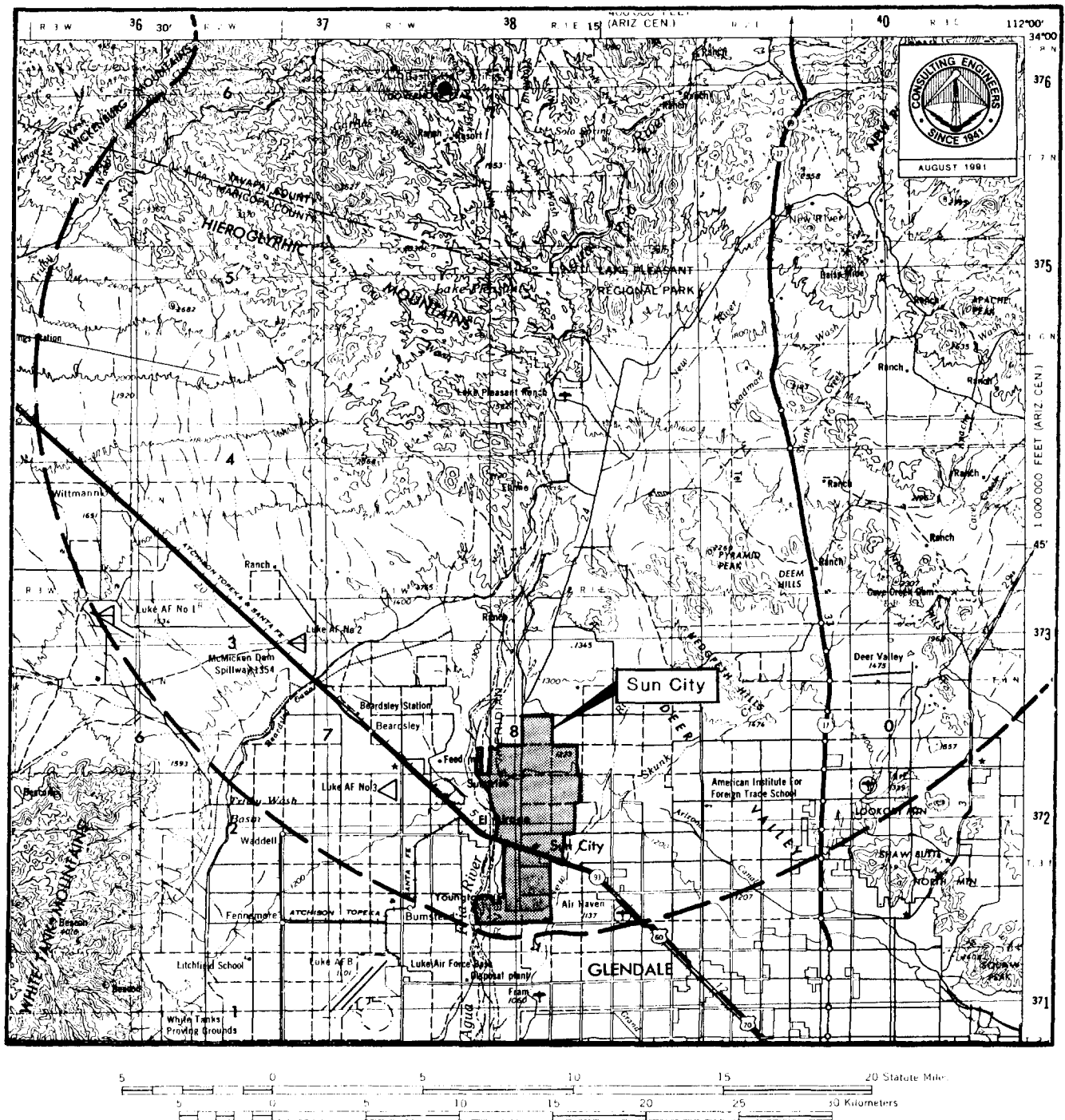
TECHNICAL EXHIBIT
IN SUPPORT OF PETITION FOR RULEMAKING
RESOURCE MEDIA, INC.
RADIO STATION KONC-FM
SUN CITY, ARIZONA

Tabulation of Average Elevations
and Distances to Coverage Contour

<u>Azimuth (deg. T.)</u>	<u>3-16 Kilometer Average Terrain Elevation (meters AMSL)</u>	<u>Antenna Height Above Average Terrain (meters)</u>	<u>Distance to 70 dBu Contour (km)</u>
0	899.2	30.2	15.1
45	871.7	57.7	21.1
90	603.7	325.7	45.5
135	592.8	336.6	46.1
170*	583.3	346.1	46.7
172.5*	588.0	341.4	46.4
175*	588.4	341.0	46.4
177.5*	600.1	329.3	45.7
180	613.8	315.6	44.9
225	803.7	125.7	30.0
270	969.5	-40.1	15.0
315	<u>881.0</u>	<u>48.4</u>	19.3
Average	779.4	150	

*Additional radial for contour definition -- not included in average.

Figure 3



PREDICTED 70 dBu COVERAGE CONTOUR

RESOURCE MEDIA, INC.

RADIO STATION KONG-FM

SUN CITY, ARIZONA

du Treil, Lundin & Rackley, Inc. Washington, D.C.

EXHIBIT 2

JAN 10 '91 13:50

P. 3/4



ROSE HOFFORD
GOVERNOR

Arizona
State Land Department

1818 WEST ADAMS
PHOENIX, ARIZONA 85007



M.J. HASSELL
STATE LAND COMMISSIONER

December 28, 1990

Mr. Mike Wallis
c/o Daum Development
2231 East Camelback Rd., #101
Phoenix, Arizona 85016

RE: Your letter of December 11, 1990

Dear Mr. Wallis:

The site referred to in your letter, namely, the NE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 2, T8N, R1W is NOT owned by the Arizona State Land Department. However, the area shown on your map lies in T7N. The Department DOES own Section 2 in that Township. If this is the correct location, the Section is available for a commercial lease. You would be required to submit three applications. The first would be to reclassify the land from grazing to commercial. Then, applications for the communications site and associated access and utility rights-of-way would be required. The Department would process these applications and evaluate them on their merit with no assurances of a favorable response.

Sincerely,

A handwritten signature in cursive script, appearing to read "R. Ruziska".

Ron Ruziska
Commercial Leasing Administrator

RFR/mjc